

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Cheryl Sherry

**Date application filed with the Town Clerk:** June 9, 2006

**Nature of request:** A Special Permit for a supplemental apartment under Section 5.011 of the Zoning Bylaw

**Address:** 87 State Street (Map 5N, Parcel 120, R-N Zoning District)

**Legal notice:** Published on June 27 and July 4, 2006 in the Daily Hampshire Gazette and sent to abutters on June 26, 2006

**Board members:** Tom Simpson, Barbara Ford and Russell Frank

**Submissions:** The petitioner submitted a packet of the following documents with the application:

- A set of building plans, drawn by East Coast Designs and dated 5/25/06
- A copy of the property survey, drawn by Harold Eaton & Associates, dated 6/2/06
- An Amherst GIS map of the property, with dimensions of the property and those of abutting properties.
- Two parking plans for the property, one with a turn around and the other showing two rows of stacked cars, two deep, within the driveway.
- A management plan for the house and supplemental apartment
- A project summary and construction specifications.
- A hand drawing of the proposed walkways, entranceways and landscaping for the existing house and addition

**Site Visit:** July 11, 2006

The Board met with the applicant plus her sister and mother. They observed the following:

- A large open field where several small ranch-type houses were built 15-20 years ago. The house under consideration is in the middle of this housing group.
- A condominium complex under construction, located behind the ranch houses
- Older homes, at least one of which is multi-family, located to the north along State Street
- The new construction in progress for the house under consideration, approximately in the location of the garage which had been planned for the house, but never built
- The large front yard and wide driveway, which can easily accommodate a turn-around area for four cars

**Public Hearing:** July 11, 2006

Kathy Rhines, 64 Morgan Circle, spoke at the hearing on behalf of the petitioner, her sister Cheryl Sherry. Elizabeth Londerville, mother of Ms. Rhines and Ms. Sherry, also was present.

Ms. Rhines began by thanking the Planning Department staff for their help with this project. She then gave the following information:

- Ms. Rhines and Ms. Sherry started planning for new housing for their mother in November of 2005. They both wish to live close by their mother in North Amherst.
- They obtained a building contractor and developed the construction plans for an addition to the Sherry house that were also submitted to the ZBA as part of the application
- The property was surveyed by Harold Eaton; it verified that all the dimensional requirements would be met with the proposed addition.
- They obtained the building permits for the foundation for an addition to the Sherry house, which would be built in the same location as a garage that had been originally planned, but was never built.
- They realized that they needed to apply for a Special Permit for a supplemental apartment for their mother, since the addition would have a separate kitchen as well.
- The supplemental apartment would be attached to the Sherry's home via a covered walkway.
- Ms. Rhine's house on Morgan Circle where their mother is currently living is not accessible, so they wish to make the addition to the Sherry house accessible for their mother
- There are no changes proposed for the existing house other than the connecting link to the addition
- The addition will match the existing house in terms of cedar siding, roofline, trim, overhang of the roof, etc. The main difference between the old and new section is that the new section will have better windows.
- The submitted Management Plan indicated that the owners will be responsible for refuse and recycling disposal, maintenance, landscaping and snow removal.
- The building coverage with the addition will be less than 10% of the property; lot coverage will be less than 17%. The Zoning Bylaw allows for up to 20% building coverage and 30 % lot coverage.
- The tree in the front of the property near the driveway will remain and will help to shield the extra parking required for the supplemental apartment.
- The connector link between the original and new sections of the house is 6 feet wide and 14 feet deep. It will have a roof that connects the two sections, but will not be enclosed at this time. The walkway will be constructed of pavers or brick, and there will be plantings in front for screening – hostas and azaleas, for example.
- There will be two steps up for the entrances to both existing and new sections. The interior of the supplemental apartment will be accessible, but the outside access is not at present. When the time comes for a totally accessible entrance, it will be constructed as well.
- The French doors in the front of the supplemental apartment can be ramped when needed, and the back door to the original house can be ramped as well.
- The roofline was somewhat difficult to match - the chimney and the rear door of the original house added to the complexity. The roofline of the original house is several feet higher than that of the new section and the connecting link.

Board Chair Mr. Simpson said that he is concerned about the addition meeting the Zoning Bylaw requirements for a supplemental apartment. That is, Section 5.0110 of the Bylaw states that a supplemental apartment is "a small accessory dwelling unit incorporated as part of and subordinate to a single family detached dwelling." He felt that the phrase "incorporated as part of" implies that the apartment be part of the single family house, not new construction that is separated from the original house.

Mark Snow, Assistant Building Commissioner, stated that the two sections look separate right now because of the construction, but once the addition is attached to the main building via a roof; it will be considered as part of the single-family house. Also, once the addition is completed, the building visually will look more integrated that it did at the site visit.

Ms. Rhines added that the entire building will be considered as one unit in terms of utilities – there will be one electricity meter, and one set of water/sewer lines. The rooms of the apartment will be small, the size is only 684 square feet, and overall it will be subordinate to the single family house.

The Board inquired about landscaping around the addition and screening along the lot line for the extra parking needed. Ms. Rhines referred to the picture of landscaping in the packet and stated that they want a flower bed in front of the supplemental apartment. The larger shrubs in front of the existing house will be moved to the back corner of the lot for screening. The rhododendron has already been moved to the back south-east corner of the lot.

The Board discussed whether screening for the parking should be required, but eventually concluded that the entire area is very open, the parking tee would be located in front of the adjacent houses, car lights would not affect the neighbors, and the existing tree in front of the proposed parking area will provide some screening. Ms. Rhines added that the neighbors like the open feel of the area, the fact that one property flows into the other without being broken up with fences and/or screening.

Mr. Frank made a motion to close the evidentiary part of the hearing. Ms. Ford seconded the motion, and the vote was unanimous to close the hearing.

**Public Meeting:**

The Board discussed the idea of the new addition being classified as a supplemental apartment, even though it is separated from the original house by 6 feet and has a separate foundation. They accepted Mr. Snow's and Ms. Rhines' remarks that the supplemental apartment is incorporated as part of the single family dwelling because of the connected roof and the organization of the household.

The Board concluded that the other requirements of Section 5.011 can be met as well. That is:

- Section 5.01110 requires that the apartment shall have no more than 800 square feet. The apartment will be 684 square feet, and the covered connecting link will be 84 square feet, for a total of 768 square feet.
- Section 5.01111 requires that the single family home not be used simultaneously for other accessory lodging such as boarders or a bed/breakfast business. The single family section of the home will be kept as a single family home as it currently is.
- Section 5.01112 requires that one of the dwelling units shall be occupied by the owner of the principal single family residence. This condition is met because the owners of the property live in the single family house, and Ms. Sherry's mother will occupy the supplemental apartment.
- Section 5.01113 requires that the supplemental apartment shall be occupied by no more than three (3) people. The Board decided that a condition of this permit shall limit the apartment to no more than two (2) people. The petitioner's mother will occupy the supplemental apartment, but she may wish to have an additional person living with her in the future, and the apartment is large enough for two occupants.

**Public Meeting - Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood, since there are other multi-family residences in the immediate neighborhood. Also, the conversion of the house addition to a supplemental apartment is compatible with the existing use as a single family residence since the two units will continue to be part of a three-generation family sharing the property.

10.382, 10.384, 10.385 & 10.393 – The proposal would not constitute a nuisance due to noise, lights or visually offensive structures, since the house addition for the supplemental apartment visually enhances the original house and property. Existing landscaping will be reorganized and augmented in the front of the house. Lighting is downcast for the apartment entrances.

10.383 & 10.387 – The proposal will not be an inconvenience or hazard to abutters, vehicles or pedestrians because visibility is very good along State Street and the neighborhood. The parking will be changed to include a turnaround so that cars can exit forward onto the street.

10.386 – The proposal is in conformance with parking regulations - 4 parking spaces are available on site, and a turnaround area will be provided.

10.389 – The proposal provides adequate methods of disposal, since the house is connected to Town water/sewer, and the approved Management Plan satisfactorily covers the recycling/refuse disposal used by the household.

10.391 & 10.395 – The proposal protects the scenic features of the open field on which the surrounding houses were built, and does not create disharmony with the terrain. The addition will match the scale and architecture of the existing building.

10.397 – The proposal provides adequate open space for passive or active recreation, because the property is large and open; the addition does not change the openness of the area.

10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw because it contributes to the health, safety, convenience and general welfare of this extended family.

**Zoning Board Decision:**

Ms. Ford made a motion to approve both the Special Permit and the conditions attached to said permit. Mr. Simpson seconded the motion.

For all of the reasons stated above, the Board VOTED UNANIMOUSLY to APPROVE a Special Permit to Cheryl Sherry for a supplemental apartment under Section 5.011 of the Zoning Bylaw on the premises at 87 State Street, (Map 5B/Parcel 120, R-N Zoning District), with conditions.

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TOM SIMPSON

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BARBARA FORD

\_\_\_\_\_  
RUSSELL FRANK

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2006.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2006  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2006,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Cheryl Sherry for a supplemental apartment under Section 5.011 of the Zoning Bylaw on the premises at 87 State Street, (Map 5B/Parcel 120, R-N Zoning District), subject to the following conditions:

1. One of the dwelling units shall be occupied by the owner(s) of the principal single family residence.
2. The supplemental apartment shall be occupied by no more than two (2) people.
3. External lighting shall be down-cast.
4. The supplemental apartment shall be built according to the plans approved by the Board at the public meeting July 11, 2006 and on file in the zoning office of the Planning Department.
5. The property shall be managed according to the Management Plan approved by the Board at the public meeting July 11, 2006.
6. The driveway shall be configured as shown on the plan approved by the Board at the public meeting July 11, 2006.
7. The exterior of the supplemental apartment shall match that of the single family house.
8. The single family dwelling shall not be used simultaneously for accessory lodging for lodgers/boarders/roomers/bed & breakfast under any provision of Section 5.010 of the Zoning Bylaw.
9. This permit shall expire upon change of ownership.

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THOMAS SIMPSON, Chair  
Amherst Zoning Board of Appeals

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DATE